

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:
JUAN OMAR ALVAREZ BERRIOS
AILYN YADIRA ROSARIO RESTO

XXX-XX-2967
XXX-XX-4941

DEBTOR (S)

CASE NO. 13-05014-MCF

CHAPTER 13

TRUSTEE'S MOTION TO DISMISS

TO THE HONORABLE COURT:

NOW COMES José R. Carrión, Chapter 13 Trustee, through the undersigned attorney, and very respectfully alleges and prays:

1. The captioned debtor(s) filed this Chapter 13 petition on Jun 18, 2013 .

2. As of today debtor(s) has/had/have been unable to obtain the Confirmation of the plan.

3. On August 16, 2013 , the Trustee filed an Unfavorable Recommendation to the Plan dated August 07, 2013 (Docket No.19).

4. Debtor(s) has/had/have failed to make the necessary corrections and/or amendments requested in the Unfavorable Recommendation, hence failing to propose a confirmable plan.

5. The Trustee **moves this Court for the dismissal of this case** for cause pursuant to 11 U.S.C. §1307(c)(1).

6. Section 1307(c)(1) of the Bankruptcy Code [11 U.S.C. §1307 (c)(1)] provides:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter http://www.law.cornell.edu/uscode/html/uscode11/usc_sup_01_11_10_7.html of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including-

(1) unreasonable delay by the debtor that is prejudicial to creditors;

7. Debtors have a duty to file a confirmable plan providing for the payment

of his debts. Furthermore, Debtors' failure to act as described in the aforesaid paragraphs of this motion, has cause an unreasonable delay which is prejudicial to creditors that constitute CAUSE for the dismissal of the case pursuant to 11 U.S.C. §1307(c)(1).

8. In light of the aforementioned legal requirements and the Debtors' failure to act in compliance with the Bankruptcy Code, the Trustee respectfully requests this Honorable Court to dismiss the instant case.

WHEREFORE, the Trustee respectfully prays that if debtor(s) fails to respond to this motion within the notice period provided herein, the case be dismissed for cause pursuant to 11 U.S.C. § 1307(c)(1) without further notice or hearing.

30 DAYS NOTICE: The Debtor(s) and all Creditors, and Parties in Interest in this case, are hereby notified that, if debtor(s) fails to file an opposition to this motion in writing within 30 days from the date appearing in the certificate of service, infra, the Court may grant this motion, or convert the case without the need of further notice of hearing.

NEGATIVE CERTIFICATION PURSUANT TO SECTION 201(B)(4) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003: I hereby declare according to the attached certification(s), provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the ARMY, NAVY, or AIR FORCES of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served on the same date of this motion to: the DEBTOR(s) via regular mail, to his address of record, and her/his/their attorney, via regular mail if not a ECFS registered user, and to all Creditors and Parties in Interest, who has filed a Notice of Appearance or requested to receive notices regarding the present case, to their respective address of record.

In San Juan, Puerto Rico this October 24, 2013.

/s/ Jose R. Carrion

JOSE R. CARRION
CHAPTER 13 TRUSTEE
P.O. Box 9023884, Old San Juan Sta.
San Juan, P.R. 00902-3884
Tel (787) 977-3535 FAX (787) 977-3550

13-05014-MCF

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail to the parties listed below:

JOSE R. CARRION
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DEPARTMENT OF TREASURY
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SAN JUAN, PR 00902

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AT&T MOBILITY PUERTO RICO
AT&T SERVICES INC
KAREN A CAVAGNARO
ONE AT&T WAY ROOM 3A 231

BANCO POPULAR DE PR AS AGENT SERVICING OF
ORIENTAL BANK AND TRUST
PRESTAMOS HIPOTECARIOS
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BANCO POPULAR DE PUERTO RICO
PO BOX 3622708
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BANCO PUPULAR DE PR AS SERVICING AGENT OF ORIENTAL
C/O ANGEL M VAZQUEZ BAUZA ESQ
PO BOX 191017
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JACKSONVILLE, FL 32255

ENHANCED REVOCERY
PO BOX 1259 DEP 98696
OAKS PA 19456
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EQUIPMENT DEPOT INC
PO NOC 296
NORWELL MA 02061-0296
, 00000

FIA CARD
PO BOX 982236
EL PASO, TX 79998-2236

FIA CARD SERVICES
PO BOX 982236
EL PASO TX 79998-2236
, 00000

FIRST BANK
PO BOX 11865
SAN JUAN, PR 00910-3865

FIRST BANK
PO BOX 13817
SANTURCE STATION
SAN JUAN, PR 00908-3817

FIRST BANK
PO BOX 15019
WILMINGTON, DE 19886-5019

FIRST BANK
CONSUMER SERVICE CENTER
BANKRUPTCY DIVISION (CODE 248)
PO BOX 9146

FONDO DEL SEGURO DEL ESTADO
PO BOX 365028
SAN JUAN, PR 00936-5028

L & F STATION
PO BOX 617
CIALES, PR 00638

LEADING EDGE RECOV
5440 N CUMBERLAND AV SUITE 300
CHICAGO IL 60656-1490
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LVNV FUNDING LLC
RESURGENT CAPITAL SERVICES
PO BOX 10587
GREENVILLE, SC 29603-0587

MCS
PO BOX 9023547
SAN JUAN PR 00902-3547
, 00000

MCS PLAN MEDICO
PO BOX 193310
SAN JUAN, PR 00919

NCO FINANCIAL SYSTEMS INC
PO BOX 192478
SAN JUAN, PR 00919-2478

OPERATING PARTNERS CO INC
PO BOX 194499
SAN JUAN, PR 00919

POPULAR AUTO
C/O VERONICA DURAN CASTILLO, ESQ
PO BOX 366818
SAN JUAN, PR 00936-6818

POPULAR AUTO
PO BOX 15011
SAN JUAN, PR 00902-8511

POPULAR AUTO
BANKRUPTCY DEPARTMENT
GPO BOX 366818
SAN JUAN, PR 00936

PR ACQUISITIONS LLC
PO BOX 194499
SAN JUAN PR 00919-4499
, 00000

PR ACQUISITIONS LLC
PO BOX 194499
SAN JUAN, PR 00919-4499

PUERTO RICO TELEPHONE COMPANY
PO BOX 70239
SAN JUAN, PR 00936-8239

SOUTHWEST CREDIT SYSTEM
4120 INT PARKWAY SUITE 1100
CARROLLTON TX 75007-1958
, 00000

STATE INSURANCE FUND CORP
C/O ALEJANDRO SUAREZ CABRERA
PO BOX 365028
SAN JUAN, PR 00936-5028

DATED: October 24, 2013

amanzano

OFFICE OF THE CHAPTER 13 TRUSTEE

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:
JUAN OMAR ALVAREZ BERRIOS
AILYN YADIRA ROSARIO RESTO

DEBTOR (S)

CASE NO. 13-05014-MCF

CHAPTER 13

AFFIDAVIT FOR DEFAULT JUDGEMENT
PURSUANT TO SECTION 201(b) (4)
OF THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003

I , Andy Manzano , clerk for the Chapter 13 & 12 Trustee's Office, declare under penalty of perjury, the following:

That according to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the Army, Navy or Air Forces of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

To certify the above statement I sign this affidavit,

In San Juan, Puerto Rico, October 24, 2013.





Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: ALVAREZ BERRIOS

First Name: JUAN

Middle Name: OMAR

Active Duty Status As Of: Oct-24-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: D5ZAM3835096050



Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: ROSARIO RESTO

First Name: AILYN

Middle Name: YADIRA

Active Duty Status As Of: Oct-24-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

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 4800 Mark Center Drive, Suite 04E25
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Certificate ID: B5FCC363E096SD0